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of the State of California  
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California Department of Justice  
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Attorneys for Complainant

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DIVISION OF MEDICAL QUALITY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation  
Against:

ERIC C. TUCKER, M.D.,  
1586 Old House Road  
Pasadena, California 91107

Physician's and Surgeon's  
Certificate No. A21469,

Respondent.

NO. 4535

L-53764

STIPULATION FOR VOLUNTARY  
SURRENDER OF LICENSE

IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN THE  
PARTIES TO THE ABOVE-ENTITLED MATTER THAT:

1. Kenneth J. Wagstaff, complainant, is the Executive  
Director of the Medical Board of the State of California  
(hereinafter the "Board") and is represented by Daniel E.  
Lungren, Attorney General of the State of California, by Gloria  
A. Barrios, Deputy Attorney General.

2. Eric C. Tucker, M.D., (hereinafter "respondent"),  
is represented in this administrative disciplinary proceeding  
before the Board by J. Patrick Maginnis, Esq. and Ted Flier, Esq.

1 The respondent has counseled with Mr. Maginnis and Mr. Flier  
2 concerning the effect of this stipulation which respondent has  
3 carefully read and fully understands.

4           3. At all times mentioned herein, respondent has been  
5 licensed by the Board as a physician and surgeon, certificate no.  
6 A21469. Said license was issued by the Board on February 8,  
7 1965, and has been current and clear since date of issuance.  
8 Respondent has also been licensed by the Board as a supervisor of  
9 a physician assistant, license number SA 10382. Said license was  
10 issued by the Board on February 8, 1965, and has been in a  
11 delinquent status.

12           4. On or about June 4, 1991, complainant in his  
13 official capacity as Executive Director of the Board filed  
14 Accusation No. 4535 against respondent. A true and correct copy  
15 of Accusation No. 4535 is attached hereto as Attachment "A" and  
16 incorporated by reference as it fully sets forth.

17           5. Respondent was duly served with a copy of the  
18 Accusation, Statement to Respondent, Request for Discovery, Form  
19 Notice of Defense and copies of Government Code sections 11507.5,  
20 11507.6 and 11507.7 as required by section 11503 and 11505, and  
21 respondent timely filed a Notice of Defense within the time  
22 allowed by section 11506 of the code.

23           6. Respondent is fully aware of the charges and  
24 allegations contained in Accusation No. 4535, having been fully  
25 advised of same by his attorney of record, Mr. J. Patrick  
26 Maginnis, Esq., and Mr. Ted Flier, Esq. Respondent understands  
27 that the charges and allegations contained in Accusation 4535

1 would constitute cause for imposing discipline upon respondent's  
2 physician's and surgeon's certificate heretofore issued by the  
3 Board.

4           7. Respondent and his counsel are aware of each of  
5 respondent's rights, including the right to a hearing on the  
6 charges and allegations, the right to confront and cross-examine  
7 witnesses who would testify against respondent, the right to  
8 present evidence in his favor and call witnesses on his behalf,  
9 or to testify himself, his right to contest the charges and  
10 allegations, and any other rights which may be accorded to  
11 respondent pursuant to the California Administrative Procedure  
12 Act (Gov. Code, § 11500 et seq.), his right to reconsideration,  
13 review by the superior court and to appeal to any other court.  
14 Respondent has been fully advised of his rights by his attorney  
15 of record, Mr. J. Patrick Maginnis, Esq., and Mr. Ted Flier,  
16 Esq.

17           8. Respondent, having the benefit of counsel, hereby  
18 freely, voluntarily and intelligently waives his rights to a  
19 hearing, reconsideration, appeal, and any and all other rights  
20 which may be accorded him pursuant to the Administrative  
21 Procedure Act and California Code of Civil Procedure with regard  
22 to Accusation No. 4535.

23           9. Respondent understands that by signing this  
24 stipulation, rather than contesting the charges and allegations  
25 contained in Accusation No. 4535, he is enabling the Board to  
26 issue its order accepting the voluntary surrender of his

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1 physician's and surgeon's certificate without any further  
2 opportunity to be heard or formal proceeding.

3 10. Respondent hereby voluntarily surrenders his  
4 physician's and surgeon's certificate No. 21469 to the Board for  
5 its formal acceptance.

6 11. Upon acceptance of the stipulation by the Board,  
7 respondent agrees to surrender and cause to be delivered to the  
8 Board his license certification.

9 12. Respondent fully understands that when the Board  
10 accepts the voluntary surrender of his physician's and surgeon's  
11 certificate No. A21469, he will no longer be permitted to  
12 practice medicine in the State of California.

13 13. In consideration of the foregoing stipulations,  
14 admissions and recitals, the Board, upon formal acceptance of  
15 respondent's formal surrender herein, agrees to dismiss, without  
16 prejudice, Accusation No. 4535, currently pending against  
17 respondent.

18 14. Respondent fully understands that should he ever  
19 reapply for a physician's and surgeon's certificate, or apply for  
20 any other related license, in the State of California, all of the  
21 charges and allegations contained in Accusation No. 4535 shall be  
22 deemed admitted by respondent and true and correct for the  
23 purpose of any Statement of Issues or any other proceeding  
24 seeking to deny such reapplication by respondent.

25 15. This stipulation for voluntary surrender of  
26 respondent's physician's and surgeon's certificate license is

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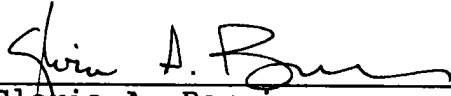
1 intended to be integrated writing memorializing the complete  
2 agreement of the parties herein.

3 16. In the event the stipulation is rejected, for any  
4 reason, by the Board, it will be of no force or effect for either  
5 party.

6  
7 I concur in the stipulation and order.

8 DATED: August 12, 1991

9 DANIEL E. LUNGREN, Attorney General  
10 of the State of California

11   
12 Gloria A. Barrios  
13 Deputy Attorney General

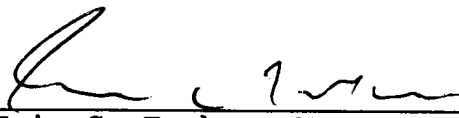
14 Attorneys for Complainant

15 I, Eric. C. Tucker, M.D., have read the foregoing  
16 stipulation and order, and I have discussed the terms of that  
17 stipulation and its effect upon my license with my attorney. I  
18 understand and acknowledge that in signing the stipulation, I am  
19 waiving and giving up my right to an administrative hearing on  
20 the charges and allegations in the Accusation which is currently  
21 pending and agree to be bound by the terms and conditions of the  
22 stipulation and order.

23 I understand and acknowledge that by the terms of the  
24 stipulation, not later than thirty (30) days after the acceptance  
25 of this stipulation by the Division of Medical Quality, I am  
26 required to surrender my Physician's and Surgeon's certificate as  
27 well as other evidence of licensure, to the issuing agencies.

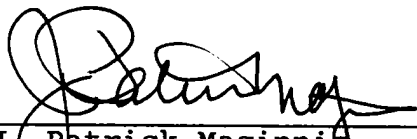
1 I further understand that in surrendering my license, I  
2 will lose all rights and privileges associated with being a  
3 licensed physician and surgeon in the State of California, except  
4 that I will retain the right to apply for a license again as a  
5 new applicant. I understand I have waived the right to petition  
6 the Division of Medical Quality for reinstatement as a physician  
7 and surgeon. I, understand that, in order to obtain a license as  
8 a physician and surgeon, I must establish to the Division's  
9 satisfaction that I am not a threat the public's health, safety  
10 and welfare. I further understand that I will bear the burden of  
11 proof on this issue in all subsequent proceedings before the  
12 Division.

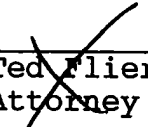
13 DATED: 8/7/91

14   
15 Eric C. Tucker, M.D.,  
16 Respondent

17 I have read and review the foregoing stipulation and  
18 order and have discussed it with my client. I am satisfied that  
19 he understands the terms and conditions and agrees to be bound by  
20 them.

21 DATED 8/7/91

22   
23 J. Patrick Maginnis  
24 Attorney for Respondent

25   
26 Ted Flier  
27 Attorney for Respondent

DECISION AND ORDER OF THE BOARD

The voluntary surrender of physician's and surgeon's license No. A21469, by respondent Eric C. Tucker, M.D. is accepted by the Medical Board of California Division of Medical Quality. Accusation No. 4535 is dismissed without prejudice. An effective date of August 14, 1991, has been assigned to this Decision and Order.

Made this 14th day of August, 1991.



FOR THE BOARD  
THERESA L. CLAASSEN  
Secretary/Treasurer  
Division of Medical Quality  
Medical Board of California

DANIEL E. LUNGREN, Attorney General  
of the State of California  
GLORIA A. BARRIOS,  
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BEFORE THE  
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DIVISION OF MEDICAL QUALITY  
DEPARTMENT OF CONSUMER AFFAIRS  
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In the Matter of the Accusation  
Against:

ERIC C. TUCKER, M.D.,  
1586 Old House Road  
Pasadena, California

Physician's and Surgeon's  
Certificate No. A21469,

Respondent.

NO. 4535

A C C U S A T I O N

The Complainant alleges:

PARTIES

1. Complainant, Kenneth J. Wagstaff, is the Executive Director of the California State Medical Board of California (hereinafter the "Board") and brings this accusation solely in his official capacity.

2. On or about February 8, 1965, Physician's and Surgeon's Certificate No. A21469 was issued by the Board to Eric C. Tucker, M.D., (hereinafter "respondent"), and at all times

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1 relevant herein to the charges herein brought, said license has  
2 been in full force and effect.

3 JURISDICTION

4 3. This accusation is brought under the authority of  
5 the following sections of the California Business and Professions  
6 Code (hereinafter "the Code"):

7 4. Section 725 of the Code provides that repeated  
8 acts of clearly excessive prescribing or administering of drugs  
9 or treatment, repeated acts of clearly excessive use of  
10 diagnostic procedures, or repeated acts of clearly excessive use  
11 of diagnostic or treatment facilities as determined by the  
12 standard of the community of licensees is unprofessional conduct  
13 for a physician and surgeon, dentist, podiatrist, psychologist,  
14 physical therapist, chiropractor, or optometrist.

15 Any person who engages in repeated acts of clearly  
16 excessive prescribing or administering of drugs or treatment is  
17 guilty of a misdemeanor and shall be punished by a fine of not  
18 less than one hundred dollars (\$600.00), or by imprisonment for a  
19 term of not less than 60 days nor more than 180 days, or by both  
20 the fine and imprisonment.

21 5. Section 2227 of the Code provides that the Board  
22 may revoke, suspend for a period not to exceed one year, or place  
23 on probation, the license of any licensee who has been found  
24 guilty under the Medical Practice Act.

25 6. Section 2234 of the Code provides that  
26 unprofessional conduct includes, but is not limited to, the  
27 following:

1           "(a) Violating or attempting to violate, directly or  
2 indirectly, or assisting in or abetting the violation of, or  
3 conspiring to violate, any provision of this chapter.

4           (b) Gross negligence.

5           (c) Repeated negligent acts.

6           (d) Incompetence.

7           (e) The commission of any act involving dishonesty or  
8 corruption which is substantially related to the  
9 qualifications, functions, or duties of a physician and  
10 surgeon.

11           (f) Any action or conduct which would have warranted  
12 the denial of a certificate."

13           7. Section 2238 of the Code provides that a violation  
14 of any federal statute or federal regulation or any of the  
15 statutes or regulations of this state regulating dangerous drugs  
16 or controlled substances constitutes unprofessional conduct.

17           8. Section 2241 of the Code provides that the  
18 prescribing, giving away, or administering or offering to  
19 prescribe, sell, furnish, give away, or administer any of the  
20 drugs or compounds mentioned in Section 2239 to an addict or  
21 habitue constitutes unprofessional conduct.

22           9. Section 2242 of the Code provides that  
23 prescribing, dispensing, or furnishing dangerous drugs as defined  
24 in Section 4211 without a good faith prior examination and  
25 medical indication therefor, constitutes unprofessional conduct.

26           10. Section 2261 of the Code provides that knowingly  
27 making or signing any certificate or other document directly or

1 indirectly related to the practice of medicine which falsely  
2 presents the existence or nonexistence of a state of facts,  
3 constitutes unprofessional conduct.

4           11. Section 2262 of the Code provides altering or  
5 modifying the medical record of any person, with fraudulent  
6 intent, or creating any false medical record, with fraudulent  
7 intent, constitutes unprofessional conduct.

8           In addition to any other disciplinary action, the  
9 Division of Medical Quality may impose a civil penalty of five  
10 hundred dollars (\$500.00) for a violation of this section.

11           12. Section 11153 (a) of the Health and Safety Code  
12 provides that a prescription for a controlled substance shall  
13 only be issued for a legitimate medical purpose by an individual  
14 practitioner acting in the usual course of his professional  
15 practice. The responsibility for the proper prescribing and  
16 dispensing of controlled substances is upon the prescribing  
17 practitioner, but a corresponding responsibility rests with the  
18 pharmacist who fills the prescription. Except as authorized by  
19 this division, the following are not legal prescriptions: (1) an  
20 order purporting to be a prescription which is issued not in the  
21 usual course of professional treatment or in legitimate and  
22 authorized research; or (2) an order for an addict or habitual  
23 user of controlled substances, which is issued not in the course  
24 of professional treatment or as a part of an authorized methadone  
25 maintenance program, for the purpose of providing the user with  
26 controlled substances, sufficient to keep him or her comfortable  
27 by maintaining customary use.

1           (b) Any person who knowingly violates this section  
2 shall be punished by imprisonment in the state prison or in the  
3 county jail not exceeding one year, or by a fine not exceeding  
4 twenty thousand dollars (\$20,000.00), or by both a fine and  
5 imprisonment.

6           13. Section 11154 (a) of the Health and Safety Code  
7 provides that except in the regular practice of his profession,  
8 no person shall knowingly prescribe, administer, dispense, or  
9 furnish a controlled substance to or for any person which is not  
10 under his treatment for a pathology or condition other than  
11 addiction to a controlled substance, except as provided in this  
12 division.

13           14. Section 11173 (a) of the Health and Safety Code  
14 provides no person shall obtain or attempt to obtain controlled  
15 substances, or procure or attempt to procure the administration  
16 of or prescription for controlled substances, (1) by fraud,  
17 deceit, misrepresentation, or subterfuge; or (2) by the  
18 concealment of a material fact.

19                           CONTROLLED SUBSTANCE

20           15. Dilaudid is a Schedule II drug known also as  
21 Hydromorphone, a synthetic form of Morphine, as provided in  
22 Health and Safety Code Section 11055, subdivision (b) (1) (k).

23                           FIRST CAUSE OF ACTION

24           16. Respondent Eric C. Tucker, M.D., is subject to  
25 disciplinary action under section 725 of the Code in that he  
26 excessively prescribed controlled substances to patients. The  
27 circumstances are as follows:

1           A.    From on or about January 10, 1983 to on or about  
2           July 16, 1990, respondent prescribed Dilaudid approximately  
3           7,379 times or an average of 1,000 times a year. He always  
4           prescribed the highest strength of Dilaudid in excessive  
5           amounts to every patient.

6                       B. PATIENT EVADNEY J.

7           1.    On or about May, 1988, through on or about  
8           September 21, 1989, patient Evadney J. went to respondent's  
9           office to buy Triplicate prescriptions of Dilaudid.

10          2.    Patient Evadney J. paid \$400.00 per Triplicate  
11          prescription of Dilaudid. The prescriptions were always for  
12          100 4 milligrams (hereinafter "mg") tablets of Dilaudid.  
13          Respondent would write each Triplicate prescription for  
14          Dilaudid with a different "phony" patient name that patient  
15          Evadney J. had given.

16          3.    Respondent never examined patient Evadney J.

17                       C. PATIENT MARGUERITA R.

18          1.    On or about 1990, patient Marguerita R. went to  
19          respondent's office to pick up Triplicate prescriptions of  
20          Dilaudid on at least two occasions.

21          2.    Respondent never examined patient Marguerita R.

22                       D. PATIENT MARJORIE S.

23          1.    On or about 1989 through on or about December,  
24          1990, patient Marjorie S. went to respondent's office to buy  
25          Triplicate prescriptions of Dilaudid.

26          2.    Patient Marjorie S. paid \$400.00 to \$580.00 per  
27          Triplicate prescription of Dilaudid. The prescriptions were

1 always for 100 4 mg tablets of Dilaudid. Respondent would  
2 write each Triplicate prescription for Dilaudid with a  
3 different "phony" patient name that patient Marjorie S.  
4 had given.

5 3. Respondent never examined patient Marjorie S.

6 E. Although respondent issued all triplicate  
7 prescriptions in Montebello, patients were filling  
8 prescriptions in cities many miles away such as Ontario,  
9 Wilmington, Anaheim, Hemet and Colton, California.

10 F. Respondent is the number one prescriber of  
11 Dilaudid in California. Respondent prescribes more  
12 Dilaudid than any other single doctor and more than most  
13 medical institutions. Dilaudid is a potent narcotic  
14 normally prescribed with caution for ambulatory patients.

15 G. In 2,486 Triplicate prescriptions issued by  
16 respondent, all prescriptions for Dilaudid are for 100  
17 tablets, 4 mg. All Triplicate prescriptions for Dilaudid  
18 are written "for severe back pain."

19 H. A review of respondent's 700 medical files  
20 indicates that he had prescribed Dilaudid to just about  
21 every patient on file. He always prescribed Dilaudid to the  
22 highest strength and in excessive amounts of 100 tablets.  
23 Respondent prescribed Dilaudid to patients who had allegedly  
24 injured their backs 10 to 25 years ago.

25 I. A review of respondent's medical files reveal that  
26 the patients did not demonstrate the symptomatology which  
27 would require Dilaudid, especially in such high doses.

1 J. On or about January 14, 1991, respondent was  
2 arrested at his office. When respondent was arrested he was  
3 counting currency which totaled \$4,000.00 in cash.  
4 Respondent had a .38 caliber revolver approximately six to  
5 eight inches from his hand.

6 K. All of respondent's patients were "back pain"  
7 patients. They all received Triplicate prescriptions of  
8 Dilaudid. None of the patient appeared to be in pain or had  
9 difficulty standing or walking. Respondent performed no  
10 medical tests on any of his patients. He averaged nine  
11 minutes per patient.

12 SECOND CAUSE OF ACTION

13 17. Respondent Eric C. Tucker, M.D., is subject to  
14 disciplinary action under section 2234 of the Code in that he  
15 engaged in unprofessional conduct by excessively prescribing  
16 drugs to patients. The circumstances are as follows:

17 A. Complainant hereby incorporates by reference  
18 paragraph 16, subdivisions A through K.

19 THIRD CAUSE OF ACTION

20 18. Respondent Eric C. Tucker, M.D., is subject to  
21 disciplinary action under section 2234 (a) of the Code in that he  
22 violated the Code by excessively prescribing drugs to patients.  
23 The circumstances are as follows:

24 A. Complainant hereby incorporates by reference  
25 paragraph 16, subdivisions A through K.

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A. Complainant hereby incorporates by reference paragraph 16, subdivisions A through K.

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1           A. Complainant hereby incorporates by reference  
2 paragraph 16, subdivisions A through K.

3                           EIGHTH CAUSE OF ACTION

4           22. Respondent Eric C. Tucker, M.D., is subject to  
5 disciplinary action under section 2234 (f) of the Code in that he  
6 engaged in conduct which would have warranted the denial of a  
7 medical certificate. The circumstances are as follows:

8           A. Complainant hereby incorporates by reference  
9 paragraph 16, subdivisions A through K.

10                          NINTH CAUSE OF ACTION

11           23. Respondent Eric C. Tucker, M.D., is subject to  
12 disciplinary action under section 2238 of the Code in that he  
13 violated state laws regarding dangerous drugs and controlled  
14 substances when he excessively prescribed drugs to patients.  
15 The circumstances are as follows:

16           A. Complainant hereby incorporates by reference  
17 paragraph 16, subdivisions A through K.

18                          TENTH CAUSE OF ACTION

19           24. Respondent Eric C. Tucker, M.D., is subject to  
20 disciplinary action under section 2241 of the Code in that he  
21 furnished drugs to addicts. The circumstances are as follows:

22           A. Complainant hereby incorporates by reference  
23 paragraph 16, subdivisions A through K.

24                          ELEVENTH CAUSE OF ACTION

25           25. Respondent Eric C. Tucker, M.D., is subject to  
26 disciplinary action under section 2242 of the Code in that he

27                           /

1 furnished drugs to patients without a medical examination and  
2 medical indication. The circumstances are as follows:

3 A. Complainant hereby incorporates by reference  
4 paragraph 16, subdivisions A through K.

5 TWELFTH CAUSE OF ACTION

6 26. Respondent Eric C. Tucker, M.D., is subject to  
7 disciplinary action under section 2261 of the Code in that he  
8 knowingly made false statements when he excessively prescribed  
9 drugs to patients. The circumstances are as follows:

10 A. Complainant hereby incorporates by reference  
11 paragraph 16, subdivisions A through K.

12 THIRTEENTH CAUSE OF ACTION

13 26. Respondent Eric C. Tucker, M.D., is subject to  
14 disciplinary action under section 2262 of the Code in that he  
15 created false medical records when he excessively prescribed  
16 drugs to patients. The circumstances are as follows:

17 A. Complainant hereby incorporates by reference  
18 paragraph 16, subdivisions A through K.

19 FOURTEENTH CAUSE OF ACTION

20 27. Respondent Eric C. Tucker, M.D., is subject to  
21 disciplinary action under section 11153 (a) of the Health and  
22 Safety Code in that he furnished drugs without a legitimate  
23 medical purpose. The circumstances are as follows:

24 A. Complainant hereby incorporates by reference  
25 paragraph 16, subdivisions A through K.

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1 FIFTHTEENTH CAUSE OF ACTION

2 28. Respondent Eric C. Tucker, M.D., is subject to  
3 disciplinary action under section 11154 (a) of the Health and  
4 Safety Code in that he knowingly prescribed drugs to persons who  
5 he was not treating for any pathology or condition. The  
6 circumstances are as follows:

7 A. Complainant hereby incorporates by reference  
8 paragraph 16, subdivisions A through K.

9 SIXTEENTH CAUSE OF ACTION

10 29. Respondent Eric C. Tucker, M.D., is subject to  
11 disciplinary action under section 11173 (a) of the Health and  
12 Safety Code in that he obtained controlled substances by  
13 misrepresentation. The circumstances are as follows:

14 A. Complainant hereby incorporates by reference  
15 paragraph 16, subdivisions A through K.

16 PRAYER

17 WHEREFORE, the complainant requests that a hearing be  
18 held on the matters herein alleged, and that following said  
19 hearing, the Board issue a decision:

20 1. Revoking or suspending Physician's and Surgeon's  
21 Certificate No. A21469, heretofore issued to respondent Eric C.  
22 Tucker, M.D.;

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1                   2.   Taking such other and further action as the Board  
2 deems proper.

3                   DATED: 6/4/91.

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6                   Kenneth J. Wagstaff  
7                   Kenneth J. Wagstaff  
8                   Executive Director  
9                   Medical Board of California  
                  Department of Consumer Affairs  
                  State of California

10                  Complainant  
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